

To: Tom Hagler/R9/USEPA/US@EPA[]
From: "Tina Cannon Leahy"
Sent: Fri 6/20/2008 12:34:36 AM
Subject: Just so you know how strange my world had become.
[061708 CESAR BA Comment ltr.pdf](#)
marshall@water.ca.gov

The contract lawyers funded by the water contractors are calling the peripheral canal a conservation measure for fish and the Council for Endangered Species Act Reliability is actually (once again) the water contractors. (See enclosed.)

How are things on planet Earth?

>>> "Marshall, Paul" <marshall@water.ca.gov> 6/16/2008 10:50 AM >>>
Hi all,

This is an off-line update on the BDCP 404(b)1 analysis. I believe I have this fairly correct.

Will Stelle and Marc Eben met with the Chief of the Regulatory branch at the ACOE, Mike Jewel. Apparently Marc has coordinated a number of 404(b)1 analyses, and has worked directly with Mike in the process. I understand that this area is the subject of recent court challenges, which is why Marc gets brought in. In the BDCP, Resources Agency would like to eliminate those challenges by front loading the process with solid interfaces with the Corps.

The meeting with the Corps went well. It was suggested by the Corps and agreed upon that the BDCP would segment its 404 analysis into the separate sections of function - habitat versus conveyance. Marc did not elaborate on the habitat analysis, but they spent a good deal of time talking about the conveyance part. And since the conveyance part of BDCP is essentially a conservation measure that will be required under the HCP, the alternative analysis should be limited to alignment and footprint impacts. Therefore, a majority of the 404 analysis will be spent on avoiding sensitive areas in the alignment. There will be very little, if anything, on analyzing options to conveyance or conveyance options.

Marc says that much of the 404 analysis is not ready to start without having more in the way of the HCP. I mentioned the need to talk with the EPA and he said the Corps will be coordinating with the appropriate levels at the EPA. Marc will be following up with the Corps later in the summer as the BDCP options begin to take shape.

The one take away message I got from my meeting was that Will and Marc have kick started the process at the highest of levels and they would like to keep it there to allow the Corps to direct their own staff on this. This methodology will prevent us from starting in one direction with one staff person - only to have the direction changed as the analysis moves through the ranks.

I hope this is fairly clear. I will continue to talk with Marc on this to stay up to date. As we get to a point where Marc needs assistance, I will ask Teresa about a task order for this.

Paul

Paul A. Marshall, PE

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